



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 3:09-CR-368HEH
	)	
COVEY ANDREWS	)	<b>UNDER SEAL</b>

**SUPPLEMENTAL RESPONSE OF THE UNITED STATES TO  
DEFENDANT'S MOTION TO VACATE, SET ASIDE OR  
CORRECT SENTENCE PURSUANT TO 28 U.S.C. § 2255**

COMES NOW, the United States of America, by counsel, and files this Supplemental Response to defendant's Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255.

On September 11, 2009, Richmond Police officers recovered 33.4 grams of heroin, a loaded .357 caliber Smith & Wesson pistol, a digital scale, a box of plastic sandwich baggies, and a bag of rubber bands from the Mercedes Benz defendant was then operating. The search was pursuant to a warrant obtained by former Richmond Detective Jason Norton. Defendant, Covey Andrews, does not contest these facts. Indeed, on December 22, 2009, he pled guilty to possession with the intent to distribute the heroin, in violation of 21 U.S.C. § 841; and possession of the firearm in furtherance of a drug-trafficking crime, in violation of 18 U.S.C. § 924(c).

Well after these events, the United States became aware that there were numerous irregularities in the identification of informants used by former Detective Norton in search warrants, and in the paperwork associated with documenting and paying these individuals. These irregularities raised questions about the candor and accuracy of former Detective Norton.

Accordingly, the United States disclosed to defense counsel in all federal cases in which former Detective Norton had been an affiant for a warrant the fruits of its investigation to that date. As a result of the information disclosed by the United States, defendant filed the present motion, pursuant to 28 U.S.C. § 2255, to withdraw his guilty plea.

Since its initial disclosure, the United States has continued its investigation of this matter, including interviewing former Detective Norton and various individuals who have provided him with information. What that investigation has made clear is that the probable cause information in the affidavit in this case is accurate, and was provided by a reliable informant.

Nonetheless, the United States has concluded that there is sufficient *Giglio* material pertaining to former Detective Norton and sufficient reason to doubt the description of the informant in this case to warrant this Court granting the defendant's motion to withdraw his guilty plea pursuant to 28 U.S.C. § 2255. The United States is satisfied that had defendant been aware of these facts, he would not have pled guilty in this case. *See United States v. Fisher*, 711 F.3d 460 (4th Cir. 2013) (guilty plea not knowingly and voluntarily made when defendant has been misinformed as to a crucial aspect of his case.)

### **CONCLUSION**

Based on the foregoing, the United States respectfully requests that the Court grant defendant's 2255 motion and allow defendant to withdraw his plea of guilty.

Respectfully submitted,

DANA J. BOENTE  
UNITED STATES ATTORNEY

By:

A handwritten signature in black ink, appearing to read "Stephen W. Miller", written over a horizontal line.

Stephen W. Miller  
Assistant United States Attorney  
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CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Supplemental Response of the United States to Defendant's Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C.

§ 2255 was sent by mail this 26<sup>th</sup> day of March, 2015 to:

Robert J. Wagner  
Assistant Federal Public Defender  
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